
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,
Plaintiff,

v.

CRUZ VALENZUELA-BORJAS,
Defendant.

MEMORANDUM DECISION AND
ORDER DENYING DEFENDANT'S
MOTION TO RECONSIDER

Case No. 2:13-CR-107 TS
District Judge Ted Stewart

This matter is before the Court on Defendant's Motion to Reconsider. For the reasons discussed below, the Court will deny Defendant's Motion.

Defendant was charged with possession of methamphetamine with intent to distribute. Defendant pleaded guilty on March 4, 2013, and was sentenced on June 4, 2013. Defendant's total offense level was 27. With a criminal history category of I, Defendant's advisory guideline range was 70 to 87 months. The Court imposed a below-guideline sentence of 60 months.

Defendant qualified for a sentence reduction pursuant to 18 U.S.C. § 3582, Sentencing Guideline § 1B1.10, and Amendment 782. Under those provisions, Defendant's amended guideline range was 57 to 71 months. On April 17, 2015, the Court granted Defendant's request for reduction and imposed a sentence of 57 months. Defendant now asks the Court to reconsider its sentence, arguing that the Court should further reduce Defendant's sentence, as it had done previously.

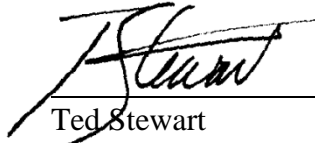
Defendant's request is precluded under the Sentencing Guidelines. Guideline § 1B1.10(b)(2)(A) provides that, except in circumstances not applicable here, "the court shall not

reduce the defendant's term of imprisonment under 18 U.S.C. § 3582(c)(2) and this policy statement to a term that is less than the minimum of the amended guideline range determined under subdivision (1) of this subsection." Under this provision, the Court lacks the authority to impose a sentence below the amended guideline range.¹ It is therefore

ORDERED that Defendant's Motion to Reconsider (Docket No. 72) is DENIED.

DATED this 13th day of July, 2015.

BY THE COURT:



Ted Stewart
United States District Judge

¹ *United States v. Rhodes*, 549 F.3d 833, 841 (10th Cir. 2008).